

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2000-09

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-090-00

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: **Petition 2000-09 (LCB R-090-00)** is a permanent amendment to NAC 519A.010 to 519A.415, the mining regulation and reclamation rules. The amendments include an added definition for "process fluid stabilization." Amended is NAC 519A.345 by allowing surety's to be used for process fluid stabilization. NAC 519A.360 was amended to require mining operations to consider process fluid stabilization in reclamation of mining operations

Authority citation other than 233B: NRS 519A.160 (1-4)

Notice date: May 19, May 22, May 31 and June 8, 2000

Hearing date: June 20, 2000

Date of Adoption of Agency: June 20, 2000

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PERMANENT PETITION 2000-09 (R-090-00)
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 519A. This permanent regulation deals with amendments to the mining reclamation program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2000-09 (R-090-00), was noticed four (4) times: May 19, May 22, May 31 and June 8, 2000 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. A report was prepared that summarized the public meetings. Workshops were held on May 8, 2000 in Reno, May 9, 2000 in Las Vegas, May 11, 2000 in Winnemucca and May 12, 2000 in Elko. The regulated community was mailed the proposed rules. The notice of the workshops were advertised in the Elko Daily Free Press, the Humboldt Sun, the Reno Gazette-Journal, and the Las Vegas Review-Journal and the Las Vegas Sun. The regulation was adopted by the State Environmental Commission on June 20, 2000. Verbal comments supporting the regulation were made by the Nevada Mining Association. General comments from the Nevada Environmental Coalition were received at the hearing. No public verbal comments opposing the regulations were received. One writtern comment (exhibit 4) supporting the petition was submitted the by Nevada Mining Association and the Great Basin Mine Watch. No written comments were received at the Commission's hearing opposing this permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	28
(b)	Testified at each hearing:	3
(c)	Submitted to the agency written comments:	1

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony was received that opposed the permanent regulation. One verbal comment was received in support of the petition from Barrick Gold Strike. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission on June 20, 2000 with out any request for amendments.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

Mine operators with process fluid stabilization needs may be required to post additional surety.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The public would be better protected from possible financial impacts due to unsecured closure of mining operations and emergency fluid management obligations.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency. The Bureau of Land Management and the USDA Forest Service requires surety for process fluid stabilization on public lands, but not private lands.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The requirement for a surety for process fluid stabilization is not more stringent than federal requirements

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

No new fees or fees were increased by this regulation.

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FILED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R090-00

Explanation - Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-4, NRS 519A.160.

Section 1. Chapter 519A of NAC is hereby amended by adding thereto a new section to read as follows:
“Process fluid stabilization” means binding, containing or otherwise treating contaminants in a fluid, including, without limitation, meteoric waters, that have intentionally or unintentionally been introduced into a heap leaching facility or tailings facility to prevent the contaminants from degrading the waters in this state through naturally occurring environmental conditions which may be reasonably expected at the mine site.

Sec. 2. Chapter 519A.010 is hereby amended to read as follows:
519A.010 As used in NAC 519A.010 to 519A.415, inclusive, unless the context otherwise requires, the words and terms defined in NAC 519A.015 to 519A.095, inclusive, **and section 1 of this regulation** have the meanings ascribed to them in those sections.

Sec. 3. NAC 519A.345 is hereby amended to read as follows:
519A.345 The division may, if appropriate, require an operator of a mining operation to reclaim:

1. Roads and drill pads by:
 - (a) Recontouring or regrading to round off, cut and fill slopes to the original contour or to approximate the form of the land before its disturbance;
 - (b) Removing culverts;
 - (c) Ripping or scarifying the surface;
 - (d) Constructing water bars;
 - (e) Revegetation; and
 - (f) Restoring or stabilizing drainage areas or streambeds.
2. Drill holes from exploration by plugging the holes with the minimum surface plug required pursuant to chapter 534 of NRS.
3. Waste and development rock piles by:
 - (a) Regrading to round off sharp edges, enhance the stability, reduce susceptibility to erosion and facilitate efforts for revegetation;
 - (b) Revegetation; and
 - (c) Diverting run-on.
4. Dams for tailings ponds by:
 - (a) Covering with waste rock, topsoil or growth medium;
 - (b) Revegetation; and
 - (c) Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam or to public safety.

5. Impoundments for tailings by:
 - (a) Regrading to promote run-off and reduce infiltration;
 - (b) Covering with waste rock, topsoil or growth medium;
 - (c) Revegetation; **[and]**
 - (d) ***Process fluid stabilization; and***
 - (e) Diverting run-on.
6. Heaps from leaching by:
 - (a) Regrading to enhance structural stability, promote run-off, reduce infiltration and control erosion;
 - (b) Covering with waste rock, topsoil or growth medium;
 - (c) Revegetation;
 - (d) **~~[Stabilization]~~ *Process fluid stabilization; and***
 - (e) Diverting run-on.
7. Solution ponds, settling ponds and other nontailings impoundments by:
 - (a) Backfilling and regrading to approximate the natural land form; and
 - (b) Restoring the regime of the surface water to the regime that existed before the disturbance.
8. Buildings, foundations, facilities, structures and other equipment by:
 - (a) Demolishing to the level of the foundation and burying the demolished items on the site in conformance with applicable requirements for the disposal of solid waste;
 - (b) Salvaging and sale;
 - (c) Disposal off of the site in conformance with applicable requirements for the disposal of solid waste; and
 - (d) Continuing use in a manner consistent with the post-mining land use.
9. Open pit mines by:
 - (a) Performing activities that will provide for public safety;
 - (b) Stabilizing pit walls or rock faces where required for public safety;
 - (c) Constructing and maintaining berms, fences or other means of restricting access;
 - (d) Creating a lake for recreational use, wildlife or other uses; and
 - (e) Revegetation.

Reclamation of open pits or rock faces does not require backfilling although backfilling in whole or in part with waste rock from an adjacent mining operation may be encouraged if backfilling is feasible and does not create additional negative environmental impacts.

10. Underground mines by:
 - (a) Sealing shafts, adits, portals and tunnels to prevent access; and
 - (b) Constructing and maintaining berms, fences or other means of restricting access.

Sec. 4. NAC 519A.360 is hereby amended to read as follows:

519A.360 1. The operator shall provide surety in an amount sufficient to ensure reclamation of:

- (a) The entire area to be affected by his project or operation; or
- (b) A portion of the area to be affected if, as a condition of the issuance of the permit, filing additional surety is required before the operator disturbs land not covered by the initial surety.

2. Except as otherwise provided in subsection 6, the amount of surety required must be based on an estimate of the cost of executing the plan for reclamation which would be incurred by the state or federal agency having jurisdiction over the land.

3. The operator's estimate of the cost for reclamation must be based on either:

- (a) The costs of equipment rental, operation and labor appropriate for the geographic area;

(b) Estimated costs provided by an outside contractor; or
(c) Any other method which is acceptable to the administrator, the Bureau of Land Management, the United States Forest Service or another federal land management agency, if applicable.

4. In determining the cost of executing the plan for reclamation, ***the operator shall consider*** all activities in the plan for reclamation ~~{must be considered,}~~ ***that are required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS,*** including, if appropriate:

- (a) Earth moving, regrading, stabilization of heaps and dumps, recontouring of roads and erosion control;
- (b) ***Process fluid stabilization;***
- (c) Revegetation, preparation of seedbed and planting;
- ~~{(e)}~~ (d) Demolition of buildings and other structures;
- ~~{(d)}~~ (e) Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and reagents;
- ~~{(e)}~~ (f) Any ongoing or long-term activities which are required to maintain the effectiveness of reclamation or are necessary in lieu of reclamation, including periodic clean-out of sediment basins or maintenance of berms and fences which are used to prevent access to areas which pose a threat to the public safety;
- ~~{(f)}~~ (g) Equipment mobilization and demobilization; and
- ~~{(g)}~~ (h) Administration and management by the division, the Bureau of Land Management, the United States Forest Service and another federal land management agency, if applicable.

5. In determining the cost of executing the plan for reclamation, the operator ~~{is not required to}~~ ***shall not*** consider the cost of ~~{environmental stabilization, remediation and neutralization or any other}~~ ***any*** activity not ***included in the plan for reclamation or not*** required by NAC 519A.010 to 519A.415, inclusive, or chapter 519A of NRS. This subsection does not limit in any way the authorities of the Bureau of Land Management, the United States Forest Service or another federal land management agency to require surety for purposes other than those of NAC 519A.010 to 519A.415, inclusive, and chapter 519A of NRS.

6. The department shall require surety in the amount prescribed in subsections 2 to 5, inclusive, unless the operator demonstrates to the satisfaction of the administrator that a lesser amount will be sufficient to ensure that the required reclamation will be completed. The division shall consider:

- (a) The financial strength of the company;
- (b) The value of the assets of the company;
- (c) Past reclamation performance of the company;
- (d) Extent of proposed concurrent reclamation;
- (e) Ease of implementation of the proposed reclamation plan; and
- (f) Other factors presented by the applicant.

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